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November 30, 2023

Via Electronic Filing

The Honorable Judge Paul Oetken
U.S. District Court, Southern District of New York
40 Foley Square
New York, NY 10007

Re: *Dou et al v. TD Bank N.A.*
Case No.: 1:23-cv-04880

Dear Honorable Judge Oetken:

This law firm represents Plaintiffs in the above-referenced matter. This letter respectfully requests an Order directing the Clerk of the Court to remove and/or seal certain documents from the docket contained in the Plaintiffs' filing in ECF. Dckt. No. 41. This request is made pursuant to Rule 2(E)(ii) of Your Honor's Individual Rules and Practice in Civil Cases. The Defendant TD Bank, N.A. (the "TD Bank") consents to the relief requested herein.

By way of relevant procedural background, on November 22, 2023, the Plaintiffs filed their opposition to the Defendant's Motion to Dismiss the Plaintiffs' Second Amended Complaint (the "Motion to Dismiss"). Dckt. Nos. 35-37. The Plaintiffs' opposition to the Motion to Dismiss annexed the Declaration of Joshua Levin-Epstein, Esq. (the "Declaration"). Dckt. No. 41. The Declaration, in turn, annexed Exhibits "B" and "C", which are documents that TD Bank produced in response to a non-party subpoena that Plaintiffs served on TD Bank in an action before the United States District Court for the Northern District of Illinois, under the caption *Yao v. Carillon Tower/Chicago LP*, No. 1:18-CV-07865 (N.D. Ill.), subject to the terms of a protective order that governs that action (the "N.D. Ill. Protective Order").

TD Bank requested that the Plaintiffs include the information set forth in this paragraph. On November 22, 2023, TD Bank emailed the Plaintiffs explaining its view that, under the terms of the N.D. Ill. Protective Order, the documents at Exhibits "B" and "C" (i) cannot be used in this action, and (ii) should not have been filed publicly given that they were designated and marked confidential, which entitles those documents to specific protections set forth in the N.D. Ill. Protective Order. TD Bank also conveyed its view that Exhibits "B" and "C", and any portions of Plaintiffs' opposition to the Motion to Dismiss that reference those exhibits, should be removed from the docket for this action.

On November 28, 2023, the parties held a meet-and-confer to discuss those issues. During the meet-and-confer, the Plaintiffs explained that the Plaintiffs need additional time to discern whether they agree that the N.D. Ill. Protective Order prohibits the use of those documents in this action. The parties agreed that, while the Plaintiffs take the time they need to come to ground on their position on that issue, the Plaintiffs will request that Exhibits "B" and "C" be removed from the docket. Accordingly, the Plaintiffs respectfully request that the Court direct the Clerk of the Court to remove Exhibits "B" and "C" from the docket until such time as the parties reach an agreement on the scope of the N.D. Ill. Protective Order or seek judicial intervention.

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Thank you, in advance, for your time and attention to this matter.

Respectfully submitted,

LEVIN-EPSTEIN & ASSOCIATES, P.C.

By: /s/ Joshua D. Levin-Epstein

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